



## NOTICE REGARDING COVENANTS AND/OR RESTRICTIONS

The following Covenants and/or Restrictions are added as a courtesy only and are NOT WARRANTED by the property owner, their broker or agent as to completeness, accuracy, currency, or enforceability. Any interested buyer prospect is urged as part of their due diligence to contact the relevant Community Association or developer to determine for themselves what covenants and/or restrictions currently apply, how long they may remain in force, and if any changes or amendments may be currently under consideration. Additionally, or alternatively, one may wish to consider hiring an attorney to conduct this search for them and provide advice as needed.

398

Return Recorded Document to:  
Russell B. Lariscy, Jr. P.C.  
P.O. Box 2199  
Blue Ridge, GA 30513  
706-632-7117

GEORGIA, FANNIN COUNTY  
CLERK OF SUPERIOR COURT OFFICE  
FILED FOR RECORD 1/29/04

AT 9:40AM RECORDED 1/29/04  
BOOK 552 PAGE 398-402

  
DANA C. CHASTAIN  
CLERK OF SUPERIOR COURT

00866

**PROTECTIVE COVENANTS & RESTRICTIONS,  
ROAD EASEMENTS & MAINTENANCE AGREEMENTS,  
Along with  
WATER RIGHTS, EASEMENTS, and MAINTENANCE AGREEMENTS  
FOR  
FOX MOUNTAIN CROSSING SUBDIVISION**

This, Protective Covenants & Restrictions, Road Easements & Maintenance Agreements, Along with Water Rights, Easements, and Maintenance Agreements for FOX MOUNTAIN CROSSING SUBDIVISION is made this 1<sup>st</sup> day of December, 2003, by the undersigned K E K PROPERTIES, LLC (hereafter collectively referred to as "Declarant").

WITNESSETH:

WHEREAS, Declarant is the fee simple owner of all that tract or parcel of land lying and being in Fannin County, Georgia, and being more particularly described below with any additional property added hereto by amendment (hereinafter referred to as the "Submitted Property"), said property being:

All that tract or parcel of land lying and being in the 7th District and 2<sup>nd</sup> Section of Fannin County Georgia and being a part of Land Lot No. 6 & 7 and being more particularly described as LOTS 1-13 of FOX MOUNTAIN CROSSING SUBDIVISION containing 20.94 acres of land, more or less as shown on plat of survey dated May 15, 2003 prepared by Robert J. Breedlove G.R.L.S. No. 2228 of Blairsville Surveying Co. and being recorded in Plat Hanger D-53, Page 4-5, Fannin County Records. Said recorded plat is hereby made a part of this deed by reference thereto for a more complete description of the above described property.

The above described property is conveyed subject to all easements, restrictions, and rights of way as set forth on recorded plat or as appearing of record.

The above described property is the same property conveyed by Warranty Deed dated June 17, 2003 from Jng Mountain Properties, LLC in favor of K E K Properties, LLC recorded in Deed Book 510, Page 733, Fannin County Records.

WHEREAS, Declarant desires to enhance the value and provide for the uniform development of the Subdivision;

NOW, THEREFORE, the Declarant hereby declares that the Submitted Property shall be held, conveyed, encumbered, used, occupied, and improved subject to the following covenants and restrictions, as well as easements and assessments, all of which are in furtherance of a plan for subdivision, improvement and sale of real property and every part thereof. The covenants, restrictions and easements set forth herein shall run with the land and shall be binding on all parties having or acquiring and right, title or interest therein or thereto, and shall, subject to the limitations herein provided, inure to the benefit of each Owner of property, his heirs, successors, and assigns.

1. The exterior of all structures to be constructed on any of said lots shall be completed within twelve (12) months from date that construction begins. Temporary campers are permitted during construction only.
2. All Lots shall be used for residential purposes only and no business or business activity shall be conducted.
3. No inoperative cars, motorcycles, trucks, or other types of vehicles shall be allowed to remain either on or

adjacent to any Lot for a period in excess of forty-eight (48) hours; provided, however, that this provision shall not apply to any such vehicle being kept in a closed garage. There shall be no major repair performed on any motor vehicle on or adjacent to any Lots in the subdivision. All vehicles shall have current license plates.

- 4. No mobile, modular, prefab home or homes constructed in whole or in part off of any Lot will be allowed on any Lot. No structure of a temporary nature shall be used as a residence either temporarily or permanently (including but not limited to trailers, basements, tents, shacks, garages, or barns).
- 5. Trailers and Commercial Vehicles - No parking of any house or travel trailer, truck (excluding pickup truck), camper, tent, or other similar vehicle, outbuilding, or structure shall be placed on the property at any time for a period exceeding (48) hours. No industrial, commercial or farm equipment or vehicles, including without limitation dump trucks, moving vans, step vans, buses and lowboy trailers, shall be allowed to park or remain on the Property, except for so long as necessary for use in connection with ongoing construction.
- 6. No animals, livestock or poultry of any kind shall be raised, bred or kept on any lot, except that dogs, cats or other household pets may be kept provided that they are not kept, bred, or maintained for any commercial purposes. Such household pets must not constitute a nuisance or cause unsanitary conditions. Large and/or potentially vicious breeds of dogs are specifically excluded, and may not be raised, bred or kept on any lot.
- 7. Except during the construction of permanent improvements thereon, no Owner shall excavate or extract earth from any lot for any business or commercial purpose or otherwise. No elevation changes shall be permitted which materially affect surface grade of surrounding lots.
- 8. Driveways shall be maintained in good order.
- 9. Garbage and trash - No trash, garbage, or other waste material or refuse shall be placed or stored on any Lot except in covered sanitary containers. All such sanitary containers must be stored in each home, or within an enclosure designed therefor, which must be at least five (5) feet from any Lot line.
- 10. Outdoor lighting - All outdoor lighting shall be so shaded and directed such that the light there from is directed to fall only on the same premises where light sources are located.
- 11. Clotheslines - No garments, laundry, rugs or other articles may be aired or dried on any Lot.
- 12. No structure shall draw power from a temporary pole except for a temporary pole necessary for the construction of a permanent home. Power shall be hooked up permanently.
- 13. No sign of any kind shall be displayed to the public view on any lot except such signs as comply with the provisions hereof Builders may display such signs as are normally utilized to advertise the property during the construction and sales period. After an Owner closes his purchase on any lot in the subdivision, the only signs permitted on his lot will be: (a) a professionally prepared sign for identification purposes (not more than one square foot in area); and (b) a single sign to rent or sell said lot of a type used by Brokers in the area, with the usual wording, such sign to be no more than four square feet in size. In the event any such sign is unsatisfactory, the sign will be removed. These limitations shall apply to signs of all types, including banners, signs on cloth, paper, cardboard or other materials.
- 14. Any outbuilding built shall have rustic matching siding, in order to better blend in with surrounding buildings.
- 15. No parcel, or its configuration, as originally sold or conveyed by K E K PROPERTIES, LLC, shall be thereafter altered in size or configuration, or subdivided, by any parcel owner or his successors and assigns, provided that, K E K PROPERTIES, LLC, reserves the unconditional right to alter the size or configuration, subdivide, or create new parcels, and/ or to replat any unsold parcel, prior to its original sale and transfer to a parcel owner, and in such case such all altered or newly created parcels shall be subject to these covenants.
- 16. Declaration herein grants, to all owners of the above-referenced lots, all necessary easements for all current and future utilities, with said installations contemplated to be, but not required to be, within an area adjacent to the road system shown on the aforementioned plat.
- 17. All homes in the FOX MOUNTAIN CROSSING SUBDIVISION shall be of rustic look by log or log siding.
- 18. All homes built shall be a minimum of 900 square feet in size.
- 19. If any trees on neighboring lots should obstruct the view of adjoining lots, the developers retain the right to top or trim the tree or trees causing said obstruction, without approval from lot owner.

**ROAD MAINTENANCE ASSESSMENTS**

**Personal Obligation of Assessments: Claim of Lien:** All purchasers of Lots within subdivision, by acceptance of a deed therefor, whether or not it shall be so expressed in such deed, are deemed to covenant and agree to pay to an Association or group of lot owners formed for the purpose of administering said funds, (1) Annual assessments or

charges for regular road maintenance within said subdivision; and (2) special assessments for emergency repairs to said roads within subdivision, these assessments to be established as follows:

1. For annual assessments for regular road maintenance: The Owners (by a majority vote) shall prorate-estimated budget (to begin at \$120.00 per year in 2004) for said maintenance among all owners of Lots within FOX MOUNTAIN CROSSING SUBDIVISION (one share per lot owned). Each lot owner(s) shall then be responsible for this prorated amount, to be paid prior to January 1 of the year of the assessment. Payments to be made to a homeowners association to be established by all lot owners.
2. By a majority vote of all lot owners, special assessments for emergency repairs or upgrades to said road shall be established with each lot owner responsibility for a pro-rata share of said approved emergency assessment (one share per lot owned).

The annual and special assessments, together with interest and costs of collection including reasonable attorney's fees, shall be a charge on the land and shall be a continuing lien upon the property or Lot against which each such assessment is made. Each such assessment, together with interest, costs of collection, and reasonable attorney's fees, shall also be the personal obligation of the person who was the Owner of such property at the time when the assessment fell due. The personal obligation for such delinquent assessments shall also pass to his successors in title, provided a claim of lien has been recorded in the Public Records of Fannin County giving notice to all persons that a claim of lien upon the Lot is being asserted, prior to the conveyance of title to the Lot. Said claim of lien shall state the description of the residence, the name of the record Owner thereof, the amount due and the date when due, and the lien shall continue in effect until all sums secured by the lien have been fully paid. Such claims of lien shall be signed and verified by 1) an officer of the Homeowners' Association (if said Association has been established) or 2) by a representative of a majority of the lot owners within said subdivision. Upon full payment, the party making payment shall be entitled to a recordable satisfaction of lien, said satisfaction being executed either 1) by the record individual filing the lien, 2) an officer of the Homeowners' Association (if said Association has been established) or 3) by signatures indicating a majority of all lot owners. Liens for assessment may be foreclosed by suit brought in the name of the Homeowners' Association in like manner as a foreclosure of a mortgage on real property. Assessments shall not apply to the Developer and/or Declarant.

#### WATER RIGHTS AND USAGE, MAINTENANCE AND EASEMENTS AGREEMENT

Declarant at the time of this agreement, is the owner of (2) two wells both being located on LOT 3 within said SUBDIVISION, but anticipates transferring said wells to a water-servicing contractor, to be Holloway Holdings, L.L.C. Transfer shall be recorded with the Clerk of Superior Court for Fannin County Georgia along with a signed Water Service Provision and System Maintenance & Repair Agreement and Easement to be signed by Declarant and Holloway Holdings, L.L.C. directly preceding this document. Declarant retains a permanent and perpetual easement to said wells and water system, as well as an area of 100 square feet surrounding each well and water system, and retains the sole and exclusive right to operate, maintain and replace said wells and water system for the benefit of all future owners of lots in subdivision and other lots in other Phases as they may deem necessary.

All future lot owners shall have a permanent and perpetual right to contract for water service from the above described water system and shall be required to follow all terms within this agreement, any amendment of this agreement and the Water Servicing Agreement to be placed on record in the Office of the Clerk of Superior Court for Fannin County Georgia.

All lot owners by acceptance of a deed therefor, whether or not it shall be so expressed in such deed, are deemed to covenant and agree to all provisions as set forth on that certain Water Service Provision Agreement to be recorded after this document. And;

The following provisions shall apply to each lot's owner(s):

- 1) Each lot owner- shall, at their own expense, pay the full cost of the water lines running from their homes to the meter established on each lot, and shall be solely responsible for maintenance and replacement of their own lines.
- 2) If, as the result of freezing of the water lines and breaking of the same, and if as a result the pump is destroyed and/or must be replaced or repaired, said responsibility shall be the responsibility of the party whose water line froze and broke. If multiple lines should freeze and break resulting in this damage, then the owners of the damaged lines shall share equally the costs associated with the repairs to the pump and/or well.
- 3) In the event that the pump or water system is damaged through an owner's negligence, then the party responsible for said negligence shall be wholly responsible for the costs of repair or replacement of the pump or water system and all necessary expenditures associated therewith.
- 4) Each lot owner shall pay a water hook-up fee of \$750.00 to Holloway Holdings, L.L.C. before their lines can be attached to well system. The hook-up fee shall apply to all lot owners including individuals or corporations (BUILDERS) that have purchased a lot for the purpose of constructing a dwelling to be sold by them. At time of conveyance from said individuals or corporations (BUILDERS) the new purchaser(s) shall at closing reimburse said builder for the hook-up fee of

\$750.00 and this fee should be reflected on the settlement statement by the attorney or agent handling the closing.

#### RESERVATION BY DECLARANT OF ROAD EASEMENT

The Declarant hereby reserves unto himself, his successors and assigns, all necessary licenses, rights, privileges and easements over, upon, under and across all property, including but not limited to, (1) the right to use the said properties for rights-of-way and easements to erect, install, maintain and use electric and telephone poles, wires, cables, conduits, sewers, water mains, pipes, and other suitable equipment for the conveyance and use of electricity, telephone equipment, gas, cable, television, sewer, water or other public conveniences or subdivision utilities; (2) the right to cut any trees, bushes or shrubbery, make any gratings of the soil, or take any other similar action reasonably necessary to provide economical and safe utility installation and to maintain reasonable standards of health, convenience, safety and appearance; (3) the right to locate thereon wells and pumping stations; (4) the right and easement of ingress and egress for purposes of development and construction; and (5) such other rights as may be reasonably necessary to complete in an orderly and economic manner the development of all present and future phases of FOX MOUNTAIN CROSSING SUBDIVISION; provided, however, that said reservation and right shall not be considered an obligation of the Declarant to provide or maintain any such utility, development, or service. Declarant also reserves the right to connect with and make use of utility lines, wires, pipes, conduits, cable, television, sewers and drainage and other utility lines which may from time to time be in or along the streets and roads within the property. Finally, the Declarant reserves the right to establish and continue to use any sales offices, signs, or parking spaces located on the property, in its effort to market the development. The easements and rights-of-way herein reserved shall continue in existence in favor of the Declarant until conveyance of all lots a occurred and Declarant filed a written EXTINGUISHMENT OF EASEMENT document with the clerk of Superior Court, Fannin County.

#### ROAD EASEMENT FOR FOX MOUNTAIN CROSSING SUBDIVISION

It is the express intent of Declarant to grant an easement along the road system within the boundaries of the above-mentioned survey for ingress and egress to each Purchaser, their heirs, and assigns, of lots or property within FOX MOUNTAIN CROSSING SUBDIVISION. It is the express intent of Declarant to reserve for Declarant, Declarant heirs, and Declarant assigns, an easement for ingress and egress along same roads.

The easement is granted notwithstanding any error or omission in any individual conveyance to a purchaser of a lot or property, by the Declarant, which might fail to expressly grant or reserve such an easement.

Declarant hereby states, grants, and reserves an 15' Easement over and across LOT #1 as shown on the above mentioned survey. Said Easement being established for the purpose of ingress and egress and to be the access to LOT #13 of said subdivision. Said easement shall not be a mere easement but a right running with title to the lands, and shall forever be a burden against LOT 1 and shall be a benefit to LOT 13.

Declarant hereby states, grants, and reserves an 15' Easement over and across that certain gravel drive that crosses over LOT 11 of said Subdivision and shall be for the purpose of ingress and egress to LOT 12. Said easement shall not be a mere easement but a right running with title to the lands, and shall forever be a burden against LOT 11 and shall be a benefit to LOT 12.

#### DURATION AND AMENDMENT

This declaration and the restrictions contained here in shall run with and bind the submitted property for a period of fifty (50) years from and after the date when this declaration is filed for record with the Clerk of the Superior Court of Fannin County, after- which time this declaration and the restrictions shall be automatically renewed for successive periods of ten years; provided, however, that after the end of the said fifty (50) year period and during any ten year renewal period (but only during such renewal period), this declaration and the restrictions contained herein may be terminated by an instrument executed by 2/3 of the lot owners and recorded in the Office of the Clerk of the Superior Court of Fannin County, Georgia, or in such other place of recording as may be appropriate at the time of the execution of such instrument.

Declarant shall reserve the right to modify, make changes, or revisions to this AGREEMENT for a period of 3 years from filing date of this document, with 3 year period being extended if Declarant is the owner of any lot within said subdivision after the 3 year period has run. Declarant shall only exercise this right if and when Declarant shall deem change being necessary to enhance the value and provide for a more uniform development of the Subdivision. Any and all modification shall be set forth on a document know as and designated as "Amendment" to PROTECTIVE COVENANTS & RESTRICTIONS, ROAD EASEMENTS & MAINTENANCE AGREEMENTS, Along with WATER RIGHTS, EASEMENTS, and MAINTENANCE AGREEMENTS for FOX MOUNTAIN CROSSING SUBDIVISION, each Amendment shall be recorded in the office of the Clerk of Superior Court for Fannin County Georgia with a cross-reference being made to the original AGREEMENT.

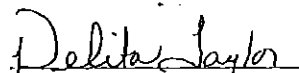
#### HOMEOWNERS' ASSOCIATION FOR FOX MOUNTAIN CROSSING SUBDIVISION

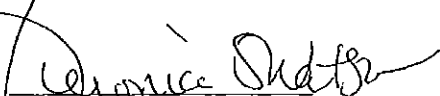
Upon sale of the last lot in said subdivision, all terms and conditions contained within this Agreement shall be the responsibility of a (Homeowners' Association), in which will be formed by a majority of LOT owners.

MISCELLANEOUS

1. Severability - A determination by a court that any provision hereof is invalid for any reason shall not affect the validity of any other provision hereof.
2. Constructive Notice - Each owner, by his acceptance of a deed or other conveyance of a lot, acknowledges for himself, his heirs, legal representatives, successors and assigns, that he is bound by the provisions of this declaration, including, but not limited to, the easement provisions for all homeowners provided in this document.
3. Binding Effect - This declaration shall be binding upon the undersigned, its heirs, administrators, successors and assigns. Said declaration shall run with the title to the property described above and any subsequent property that is added hereto by amendment.
4. Declarant shall in no way be held liable or subject to any type law suit, of any type, from anyone in regards or connection to said subdivision once all 13 LOTS within Subdivision have been conveyed by them.
5. Declarant hereby states that at time of recordation of this agreement they have complied with all Fannin County Land Development laws and regulations for development of said FOX MOUNTAIN CROSSING SUBDIVISION. And should any new purchaser of a lot within said subdivision not comply with said County laws and regulations for any reason, Declarant shall in no way be held responsible or liable, and shall be fully released of all liability thereof.


Signed, sealed and delivered in the Presence of:

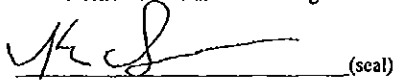
  
Witness: DELITA TAYLOR

  
Notary: VERONICA S. WATSON



K E K PROPERTIES, LLC

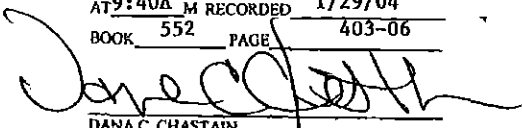
 (seal)  
Declarant - Keith Nunn Manager

 (seal)  
Declarant - Keith Sumner Manager

 (seal)  
Declarant - Edd Stepp Manager

RETURN RECORD DOCUMENT TO:  
Russell B. Lariscy, Jr. P.C.  
P.O. Box 2199  
Blue Ridge, GA 30513  
706-632-7117

GEORGIA, FANNIN COUNTY  
CLERK OF SUPERIOR COURT OFFICE  
FILED FOR RECORD 1/29/04  
AT 9:40A M RECORDED 1/29/04  
BOOK 552 PAGE 403-06



DANA C. CHASTAIN  
CLERK OF SUPERIOR COURT

STATE OF GEORGIA  
COUNTY OF FANNIN

00867

**WATER SERVICE PROVISION AND SYSTEM MAINTENANCE & REPAIR  
AGREEMENT AND EASEMENT**

FOR

**FOX MOUNTAIN CROSSING SUBDIVISION**

*THIS AGREEMENT* Made this 1<sup>ST</sup> day of December, in the year of our Lord Two Thousand and Three (2003) between K E K PROPERTIES, LLC a Georgia Limited Liability Company (hereinafter referred to as the "User"), and HOLLOWAY HOLDINGS, L.L.C. a Georgia Limited Liability Company (hereinafter referred to as "Provider").

WITNESSETH

WHEREAS, the User possesses Ownership of a Water System serving the following lands, described as:

All that tract or parcel of land lying and being in the 7th District and 2<sup>nd</sup> Section of Fannin County Georgia and being a part of Land Lot No. 6 & 7 and being more particularly described as LOTS 1-13 of FOX MOUNTAIN CROSSING SUBDIVISION containing 20.94 acres of land, more or less as shown on plat of survey dated May 15, 2003 prepared by Robert J. Breedlove G.R.L.S. No. 2228 of Blairsville Surveying Co. and being recorded in Plat Hanger D-53, Page 4-5, Fannin County Records. Said recorded plat is hereby made a part of this deed by reference thereto for a more complete description of the above described property.

The above described property is conveyed subject to all easements, restrictions, and rights of way as set forth on recorded plat or as appearing of record.

The above described property is the same property conveyed by Warranty Deed dated June 17, 2003 from Jag Mountain Properties, LLC in favor of K E K Properties, LLC recorded in Deed Book 510, Page 733, Fannin County Records.

WHEREAS, the User, as well as its successors, heirs and assigns (including but not limited to eventual lot owners, their heirs and assigns of lots in the above-described property) desires to have Provider accept ownership of, maintain, and accept full responsibility for the water system and for providing water to the lots in the above-described property, and Provider wishes to contractually obligate itself to maintain and provide water to the above-described property, as well as any additional properties added to this agreement by reference thereto;

NOW, THEREFORE, the parties do hereby agree as follows:

ITEM I. Definitions

As used herein, "Water System" means the well(s), piping, pumps, any pressure system tank(s), pump house(s), and entire water distribution system from the primary well(s) to each individual lot. User covenants and agrees for itself, it heirs, successors and assigns that water will be obtained only from the Water System, and from no other source.

"User" shall mean K E K PROPERTIES, LLC

"Provider" shall mean HOLLOWAY HOLDINGS, L.L.C., its successors and assigns.

107  
"Lot Owner" shall mean all eventual owners of Lots or Tracts in the above-described property, but shall not include User.

ITEM 2. Express Easement

The User does hereby grant to Provider, its successors and assigns a permanent and perpetual easement for ingress and egress over and across its properties. Said easement shall be used for the purpose of maintaining the Water System, and shall include the ability to access surface and sub-surface areas necessary to maintain, replace, upgrade, add additional system components or repair said Water System. In the event this contract terminates or is discontinued in any manner, any subsequent Provider shall have the same easement for similar purposes.

ITEM 3. Scope of Work and Responsibility

Provider agrees to maintain and ensure that water is provided to all lots in a sufficient quantity and for normal household use. Provider further agrees that should there be problems with the well system, well equipment, and distribution lines, it will repair or replace any such failed or defective equipment at its expense. In addition, Provider agrees to pay all utility costs associated with the operation and maintenance of this water system. The Lot Owners agree to be responsible for any filtration to be used on their respective properties, and further agree that each Lot Owner shall install a back-flow prevention in their water line between where their line hooks to the meter or T-off and enters the home.

Each Lot Owner shall be responsible for all costs associated with their individual water lines from the point where said water lines hook to the main water line to the Lot Owner's dwelling.

ITEM 4. Period of Performance

The term of this agreement is perpetual, with the exception that Provider may transfer all rights, privileges and liabilities under this agreement to the Lot Owners as a group or to an association formed by the Lot Owners upon (30) days written notice to any full-time Lot Owner or to the Association should an association be formed at that time. This agreement may be terminated by the Lot Owners as a group should Provider fail to provide adequate/standard pressure and/or quality of water, full ownership of the water system then reverting to the homeowners' association or a group of owners formed for the purpose of administering the water system. Determination of inadequate / non-standard pressure of water shall be made by Byers Well Drilling, in its sole judgment and discretion.

Upon sale of the last lot in the above-described property owned by User, all obligations and liability of User in this contract shall become the obligation and/or liability of the Homeowners' Association formed by the Lot Owners.

ITEM 5. Payment

Each individual Lot Owner who is connected to the water system agrees to be individually responsible for an annual fee of \$360.00 as compensation to Provider for maintaining and providing water to the Lot Owners, well as a monthly fee of \$3.00 per thousand gallons of water (rounded up to the nearest thousand) used over three thousand gallons per month. Each subsequent year's fee shall be billed to the Lot Owner directly by Provider, payment for same to be due on or before January 1<sup>st</sup> of each year (additional monthly usage fees for excess water usage, as above, to be billed as determined by Provider). Payment shall be made to Provider within 10 days of connection to the water system. Said fees shall increase annually (with (30) thirty days notice to each Lot Owner), by an amount not to exceed the Consumer Price Index for the previous year ("all cities" or comparable index Consumer Price Index).

Provider shall have the sole right to change its billing structure to a monthly or quarterly billing system.

Additionally, each Lot Owner shall be required to pay a connection and meter fee of \$750.00 due upon connection of the Lot Owner's individual water line to the water system (fee due to Provider).

No fees shall apply to User.



415

**ITEM 6. Termination of Water Service**

Provider shall have the right to terminate service to any Lot Owner that either negligently impairs the water system or fails to pay the annual and/or monthly service fees. Prior to termination of such service by Provider, Provider shall provide the Lot Owner with 30 days notification prior to termination of service. Should a Lot Owner's actions jeopardize the quality of water or the integrity of the water system, that Lot Owner's service shall be immediately terminated by Provider until such time as the impact to service is remedied by the Lot Owner. To reconnect to the Water System, all past due fees shall be paid as well as a \$500.00 reconnect fee.

**ITEM 7. Warranty**

Provider warrants the User's water system will be maintained in good working condition at all times to ensure uninterrupted water service. Upon detection of a system failure by Provider, or notification of a problem or failure by any Lot Owner, or any other party, Provider shall make a reasonable effort to correct such system failure or problem as soon as possible to minimize interruption of system service, but in no event later than 24 hours from time of such notification.

**ITEM 8. Indemnification**

In the event Provider, its employees, agents or subcontractors at any tier are on or about property occupied by or under the control of the Lot Owners, Provider shall defend, indemnify, and hold harmless the Lot Owners from any claim, suit, loss, cost, damage, expense to any property or person, including but not limited to Provider's employees, of whatever nature or kind arising out of, as a result of, or in connection with such performance occasioned in whole or in part by the actions or omissions of Provider, its employees, agents or subcontractors at any time.

**ITEM 9. Amendments**

These terms and conditions and defined responsibilities of the parties shall not be varied or amended except by an instrument in writing executed concurrently with or subsequent to the execution of this Agreement and signed by Provider and the Lot Owners. In the event of a sale or title transfer of an individual Lot Owner's lot, the individual Lot Owner shall have the authority to make a unilateral change to this agreement, changing only the title of the lot to the new User. Any Homeowners' Association formed for the above-described property shall, by a majority vote, have the authority to modify this agreement if said changes are approved and accepted by Provider, and said changes shall then be binding on all Lot Owners.

**ITEM 10. Assignment**

This Agreement and the rights and obligations hereunder shall inure to the benefit of, and shall be binding upon, each of the parties hereto and their respective successors and assigns (including the Lot Owners). Each party shall promptly notify the other of any such assignment and this Agreement shall promptly be amended, as specified in Paragraph 9 above to reflect such assignment.

**ITEM 11. No Waiver**

Either party's failure to exercise any right arising hereunder shall not constitute a waiver of that, or any similar right, or preclude that party from enforcing such rights.

**ITEM 12. Notice**

Any notice or communication pertaining to this Agreement shall be deemed to have been duly given by a party hereto if personally served upon the other or if sent to the others by certified mail, or facsimile (confirmation slip retained and provided upon request to the other party) followed by certified mail. The date upon which any such notice or communication is served, or the date upon which it is received by the addressee, shall be deemed to be the effective date of such notice irrespective of any date appearing thereon. Notice shall be sent to all parties identified in this Agreement.

ITEM 13. Entire Agreement, Severability, Interpretation

The parties hereto agree to these Terms and Conditions and intend and agree that these constitute the entire understanding of the parties concerning the subject matter hereof and supersede all prior or contemporaneous written or oral understanding or agreements of the parties concerning the subject matter hereof. The entire agreement is embodied in this writing and the obligations and remedies of each party are completely set forth herein. In the event any provision herein is unenforceable, such provision shall be deemed severable, and all other provisions of herein shall remain enforceable.

Any disputes shall be litigation in the court system of Fannin County, Georgia or the Northern District of Georgia (should litigation be brought in federal court).

This agreement shall bind the heirs, successors and assigns of all parties as well as those of all Lot Owners.

ITEM 14. Notice to Holloway Holdings, L.L.C.

Each new lot owner shall notify Holloway Holdings, L.L.C. with their name and mailing address within 30 days from the date of purchase of LOT(s) in the FOX MOUNTAIN CROSSING SUBDIVISION. Should notification not be received, along with payment, than Holloway Holdings, L.L.C. will have the full right to disconnect water service from said lot, with owner being obligated to pay the stated reconnect fee. For questions or information Holloway Holdings, L.L.C. 839 Adra Road, Morganton, GA 30560 or call 706-374-5556 (leave message).

IN WITNESS WHEREOF, each of the parties hereto has executed this Agreement as of the day and year first above written.

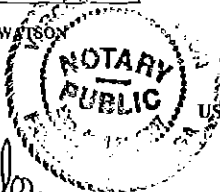
Signed, sealed and delivered this 1<sup>st</sup> day  
Of December, 2003, in the Presence of:

PROVIDER - HOLLOWAY HOLDINGS, L.L.C.

Delita Taylor  
Witness: DELITA TAYLOR

Jeffrey Holloway (seal)  
By: Jeffrey Holloway General manager

Veronica S. Watson  
Notary Public: VERONICA S. WATSON  
My commission Expires:

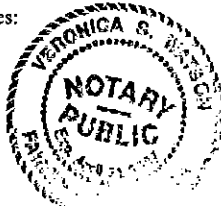


USER - K E K PROPERTIES, LLC  
Keith Nunn (seal)  
By: Keith Nunn Its: Manager

Veronica S. Watson  
Notary Public: VERONICA S. WATSON  
My commission Expires:

Keith Sumner (seal)  
By: Keith Sumner Its: Manager

Veronica S. Watson  
Notary Public: VERONICA S. WATSON  
My commission Expires:



Edd Stepp (seal)  
By: Edd Stepp Its: Manager